



**COUNTY OF MERCER  
OFFICE OF PERSONNEL**

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**MERCER COUNTY POLICY PROHIBITING DISCRIMINATION,  
HARASSMENT OR HOSTILE ENVIRONMENT IN THE WORKPLACE**

**I. POLICY**

The County of Mercer is committed to providing every employee with a workplace free from unlawful discrimination. All forms of unlawful employment discrimination including, but not limited to, those based upon race, creed, color, national origin, ancestry, age, sex, marital status, familial status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, whistle blowing or disability are prohibited and will not be tolerated. Sexual harassment is a form of unlawful gender discrimination and, likewise, will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. The County of Mercer will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or non-employees. This policy applies to conduct which occurs in the workplace and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the workplace, such as any field location, or any facility where County business is being conducted and discussed.

This policy also applies to third party harassment. Third party harassment is unwelcome behavior of a sexual, racial or derogatory nature regarding any protected category, that is not directed at an individual but is a part of that individual's work environment. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, demotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions and career development.

**II. PROHIBITED EMPLOYMENT DISCRIMINATION INCLUDING, BUT NOT LIMITED TO, RACIAL, GENDER NATIONAL ORIGIN OR ANCESTRY, AGE, RELIGIOUS, DISABILITY, AFFECTIONAL OR SEXUAL ORIENTATION, MARITAL STATUS, FAMILIAL STATUS, ATYPICAL HEREDITARY CELLULAR OR BLOOD TRAIT, GENETIC INFORMATION, LIABILITY FOR SERVICE IN THE ARMED FORCES OF THE UNITED STATES, WHISTLE BLOWING DISCRIMINATION OR HARASSMENT.**

It is a violation of this policy to engage in any employment practice or procedure which treats an employee less favorably based upon a person's race, gender, national origin or ancestry, religion, age, disability, affectional or sexual orientation, marital status, familial status, atypical hereditary cellular or blood trait, genetic information, whistle blowing, or liability for service in the Armed Forces of the United States. It is also a violation of this policy to use derogatory or demeaning slurs to refer to a person's race, gender, age, religion, disability, affectional or sexual orientation, or ethnic background which have the effect of harassing an employee or creating a hostile work environment.

**Examples of Behaviors That May Constitute Prohibited Workplace Discrimination or Harassment Include, But Are Not Limited To:**

- X Discriminating against an individual with regard to terms and conditions of employment because of that individual's race, gender, age, religion, disability, affectional or sexual orientation, place or origin, or his/her ancestor's place of origin.
- X Treating an individual differently because of marriage to or association with persons of a racial, religious or national origin group; or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name or spouse's name is associated with a racial, religious or national origin group.

- X Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic jokes which create a hostile work environment. Using derogatory references regarding any of the above characteristics in any job-related communication.
- X Engaging in threatening, intimidating, or hostile acts, in the workplace, based on the foregoing classifications.

### III. SEXUAL HARASSMENT

It is a violation of this policy to engage in sexual harassment of any kind. For the purposes of this policy, sexual harassment, with or without sexual conduct, is defined as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- X submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- X submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- X such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual Harassment generally falls into two categories: quid pro quo and hostile work environment harassment:

A. Quid Pro Quo Sexual Harassment is a form of harassment that may include unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct based on the gender of the affected employee when: (a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or (b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions. It shall be a violation of this policy for any person to use his or her authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

B. Hostile Work Environment Sexual Harassment is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.

C. Third party sexual harassment is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

Examples of Prohibited Behaviors That May Constitute Sexual Harassment Include, But Are Not Limited To:

Generalized gender-based remarks and comments

- X Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.
- X Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures or inappropriate comments about a person's clothing.
- X Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals.
- X Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention.
- X Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluations or promotional opportunity.
- X Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

#### IV. EMPLOYEE RESPONSIBILITIES

Any employee who believes that she/he has been subjected to any form of prohibited discrimination/harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly

report the incident(s) to either their supervisor or division head or directly to the County's Affirmative Action Officer and the Chief, Division of Employee Relations who are designated to receiving discrimination complaints. All employees are expected to cooperate with investigations undertaken pursuant to Paragraph VI of this policy. Failure to cooperate in an investigation may result in disciplinary action.

## **V. SUPERVISOR RESPONSIBILITIES**

Supervisors should make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors are expected to take all allegations of discrimination/harassment, including sexual harassment, seriously, and to immediately refer the matter to the individual(s) responsible for receiving and investigating such complaints. Those individuals should include persons referenced in Paragraph VI. Supervisors who fail to report allegations of discrimination/harassment may be subject to appropriate disciplinary action.

## **VI. COMPLAINT PROCESS**

All complaints will be reviewed and prompt and appropriate remedial action will be taken to address any substantiated claim. All supervisors receiving complaints of unlawful discrimination or harassment must immediately advise the County's Affirmative Action Officer and Chief, Division of Employee Relations of the complaint. In the event that the supervisor, agency or department head is the subject of a concern of discrimination/harassment, the complaint should be sent directly to the County's Affirmative Action officer with notification to the Chief, Division of Employee Relations. All employees are expected to cooperate with investigations undertaken pursuant to this policy. All investigations of discrimination/harassment claims will be conducted in a way that respects, to the extent possible, the privacy of all persons involved. The investigations will be conducted in a prompt, thorough and impartial manner. The results of the investigation will be forwarded from the Affirmative Action Officer with a recommendation to the Chief, Division of Employee Relations and County Administrator to make a final decision as to whether a violation of the policy has been substantiated.

Where discrimination/harassment is found to have occurred, the County will take prompt and appropriate remedial action to stop the discrimination/harassment and deter its reoccurrence.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment. The County shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

## **VII. PROHIBITION AGAINST RETALIATION**

Retaliation against any employee who alleges that she/he was the victim of discrimination/harassment, or against any employee who provides information in the course of an investigation into claims of unlawful discrimination/harassment in the workplace is prohibited by this policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy will not be subject to adverse employment consequences based upon such involvement or be the subject of retaliation.

## **VIII. FALSE ACCUSATIONS AND INFORMATION**

If any employee knowingly makes a false accusation of unlawful discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, will not be considered a false accusation.

## **IX. CONFIDENTIALITY**

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss the claims with the alleged harasser and other persons who may have relevant knowledge. It therefore may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

## **X. DISCIPLINARY ACTION**

Any employee found to have violated this policy may be subject to appropriate disciplinary action which may include: reprimand, suspension, reassignment, or termination of employment.

## **XI. EDUCATION**

The County shall distribute this policy to all employees so that they are educated with information regarding the prevention of unlawful discrimination/harassment and the complaint procedure to be followed in filing complaints regarding unlawful harassment/discrimination in the workplace. All prospective employees will be given a copy of the sexual harassment policy. The County will make efforts to provide supervisors and managers with training that will inform them of the appropriate steps to be taken to address complaints of unlawful discrimination/harassment. c

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